

## **Binnian Cedar Retirement Benefit Scheme ("the Scheme")**

### **Annual Governance Statement by the Chair of the Trustee for the Scheme Year Ending on 30 June 2016**

#### **Introduction**

New governance rules apply to defined contribution ('DC') schemes, and therefore the Scheme, from 6 April 2015.

As the Chair of the Trustee, I have to provide you with a yearly statement which explains what steps have been taken by the trustee to meet the new governance standards. This first statement covers an extended Scheme year from 1 April 2015 to 30 June 2016.

What has to be included in the statement is set out in law. Under normal circumstances the statement will relate to a DC scheme properly established to provide appropriate benefits for its members.

As you are aware from the Announcements issued to members since its appointment, Dalriada Trustees Limited ("Dalriada") was appointed as trustee to the Scheme by the Pensions Regulator amid concerns as to how the Scheme was being run, the investments made by the previous trustees and, principally, that the Scheme was being used as a vehicle for pension liberation. This has presented Dalriada with a number of challenges around governance. Nevertheless this statement is a legal requirement and, as such, can serve as a useful reminder of the issues faced by Dalriada and, where it cannot meet certain governance obligations, I have explained why that it is the case.

#### **Background**

Dalriada was appointed as Independent Trustee of the Scheme by Order of the Pensions Regulator on 13 June 2013. The powers and duties exercisable by Dalriada in its capacity as trustee are to the exclusion of any other trustees of the Scheme.

£11.4m was transferred into the Schemes by way of individual member transfer payments. The majority of that money (£7.7m) was paid over to Advalorem Value Asset Fund Limited, a Gibraltar based investment company.

£1.1m was paid to Swan Holding PCC Limited (Swan Holding), a company based in the Isle of Man.

Of the remainder, about £350,000 was paid in fees to the previous trustees and their advisers, a further £280,000 was paid out in benefits.

The balance, £1.9m, was held in cash.

#### **Advalorem Value Asset Fund Limited**

£7,700,000 was invested in this Gibraltar based investment company. The FSC (Financial Services Commission) in Gibraltar obtained an order appointing Chantrey Vellacott (a firm of Chartered Accountants) as administrator of Advalorem on 27 January 2014. The Schemes were the only investors in Advalorem and Dalriada and its legal advisers continue to communicate with Chantrey Vellacott in order to decide what action to take. Of the money invested, £6,600,000 was used to buy land in Scotland. The concern that the trustees had that the land was bought at overvalue was confirmed when the sale of the land by Chantrey Vellacott realised a price of £89,000.

## **Swan Holding PCC Limited**

£1,100,000 was invested in this Isle of Man based company. Shares were acquired in a 'sub-fund' of Swan Holding (called 'Cell A') and the sole purpose was to invest in UK commercial and residential properties and land. Dalriada had also previously advised that the anticipated return was 6-9% a year. We have since been notified that the directors of Swan will not currently be making any distribution of these profits. Instead the intention is to reinvest any monies made. The shares are nonredeemable and the life of the fund is a least ten years, making this investment 'highly illiquid' as it cannot be cashed in. Dalriada is trying to find out when it will get the funds back into the Schemes, and, at that time, what the investment is likely to be worth, if anything.

## **Default investment arrangement**

The Scheme did not offer members any choice as to how their funds were invested, funds were used to invest as set out above.

As such, in Dalriada's view, there has never been an appropriate default investment arrangement. There is no life-styling option available.

The previous trustees directed investment decisions without seeking appropriate investment advice.

No serviceable Statement of Investment Principles exists for the Scheme.

As the investments are unconventional, they do not comply with any maximum charge requirements which would apply if a default fund is offered.

Dalriada is not in a position to rectify any of these deficiencies at the current time.

Dalriada is working with Chantey Vellacott to establish what action can be taken in respect of these investments. Once it has identified what assets are recoverable, Dalriada will take appropriate advice to determine a suitable investment strategy.

Dalriada will also then put in place a suitable Statement of Investment Principles.

Details of the revised investment strategy and confirmation of any investment choices being made available will be set out to members. However, it is unlikely that this will be implemented in the near future. Ultimately, it is Dalriada's intention to wind up the Scheme as soon as it is able, giving members the opportunity to transfer any funds to a more suitable arrangement of their choice.

## **Core Financial Transactions**

Trustees have a specific duty to ensure that core financial transactions relating to DC schemes are processed promptly and accurately. These include the following:

- investing contributions in the Scheme
- transferring assets related to members into or out of the Scheme
- transferring the assets between different investments within the Scheme
- making payments from the Scheme to or on behalf of the members.

The Scheme does not currently accept contributions or transfers in and is unable to pay any level of benefit, including transfers values, to members at the present time.

This is due to a number of factors, not least uncertainty as to the value of the Scheme's investments. More information on this has been provided in Dalriada's Announcements to members.

The Financial Transactions the Scheme does make are, in the main, in relation to costs. These are reported in the Scheme's annual accounts.

Given its inability to carry out routine administrative actions, unsurprisingly, over the reporting period, there have been no material administration service issues which need to be reported here by Dalriada.

Notwithstanding this, Dalriada, as a professional Independent Trustee, has processes and controls in place that are suitably designed to ensure any service objectives can be achieved once the Scheme is in a position to operate in the manner of a normal scheme.

## **Charges and Transaction Costs**

The new governance rules require trustees to make an assessment of the charges and transactions costs borne by DC scheme members.

Since its appointment, there have been no transactions as Dalriada has not accepted any payments into the Scheme, either by way of contribution or transfers in.

Under the terms of its appointment, the fees of Dalriada and its advisers are met from Scheme funds. Whilst these costs fall as debt due from the employer (or sponsor), in this case the sponsor was a dormant company with no assets.

Due to the mismanagement of the Scheme by its previous trustees and the subsequent actions taken by Dalriada since appointment, it is inevitable that the Scheme has incurred, and will continue to incur, significantly higher ongoing costs than would be the case for a similarly sized but conventional scheme.

Dalriada has set out in its various Announcements to members the actions it has taken to take control of the assets that underpin the investments made by the previous trustees. Generally, actions undertaken by Dalriada, beyond those considered necessary for the appropriate management of the Scheme, are centred on legal action around recovery of funds. Such actions are considered on a cost benefit analysis and, where necessary, Court approval is sought for the use of Scheme funds to pay for such legal action.

## **Good value for members**

When assessing the charges and any transaction costs which are payable by members, trustees are required to consider the extent to which the investment options and the benefits offered by the Scheme represent good value for members when compared to other options available in the market. Given the particular circumstances of the Scheme, such a comparison is simply not possible.

Generally, Dalriada's aim is to recover what assets it can, as cost effectively as it can, to resolve the position with HMRC as regards the possible taxation of Scheme assets and, thereafter, to determine the value of members' funds and provide members with appropriate options prior to, ultimately, winding up the Scheme.

## **Trustee Knowledge and Understanding**

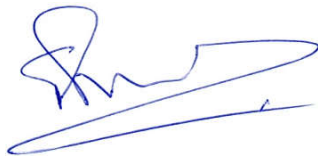
The law sets out the requirement for trustees to have appropriate knowledge and understanding of legal requirements relating to pensions and trusts, the funding of occupational pension schemes, investment of Scheme assets and other matters to enable them to exercise their functions as trustees properly. This requirement is underpinned by guidance in the Pension Regulator's Code of Practice 7.

Dalriada, as a professional trustee, meets all knowledge and understanding requirements. A record of the training completed by Dalriada staff is kept and this training record is reviewed periodically to improve standards. Dalriada also seeks external specialist advisers when required.

All current Dalriada staff have completed the Trustee Toolkit made available by the Pensions Regulator. New staff must complete the Toolkit after joining Dalriada.

As a result of the training activities which have been completed by Dalriada staff individually and collectively, and taking into account the professional external advice available to Dalriada when required, Dalriada considers that its combined knowledge and understanding enables it to exercise properly its function as trustee of the Scheme.

**Signed for and on behalf of Dalriada Trustees Limited (the trustee)**



Chairman .....

Date            30 January 2017